

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**IN RE: NEW ENGLAND )  
COMPOUNDING PHARMACY, INC. )  
PRODUCTS LIABILITY LITIGATION )**

**MDL No. 2419**

**This Document Relates to:**

**Dkt. No. 1:13-md-2419 (RWZ)**

**Wray v. Ameridose, LLC, et al.  
1:13-cv-12737**

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**STATE OF TENNESSEE'S MOTION FOR LEAVE  
TO FILE RESPONSE TO PLAINTIFFS' MEMORANDUM OF LAW  
IN OPPOSITION TO THE TENNESSEE CLINIC DEFENDANTS'  
MOTION FOR QUALIFIED PROTECTIVE ORDER**

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The State of Tennessee moves, pursuant to Local Rule 7.1(b)(3), to file a response to Plaintiffs' memorandum of law in opposition to Tennessee Clinic Defendants' motion for qualified protective order. [Doc. 55] In that memorandum, Plaintiffs assert that the Tennessee law authorizing protective orders, Tenn. Code Ann. § 29-26-121(f), is preempted by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). [Doc. 55, p. 7] This assertion challenges the viability of the Tennessee law.

The State of Tennessee requests the opportunity to respond to Plaintiffs' federal preemption argument. This Court has permitted the State to intervene in all cases transferred into this MDL challenging the constitutionality or validity of a statute under the Tennessee Code. (*See* Order Concerning Intervention by the State of Tennessee, Doc. 516) (copy attached).

The undersigned counsel has contacted the attorneys for Plaintiffs and Tennessee Clinic Defendants. They were agreeable to the State filing a response on this matter, provided that the

State's response was filed by February 12, 2016. The State is agreeable to that scheduling deadline.

The State respectfully requests leave to file a response to Plaintiff's memorandum as set forth in this motion.

Respectfully submitted,

HERBERT H. SLATERY III  
Attorney General and Reporter

s/Joseph Ahillen  
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#### **CERTIFICATE OF SERVICE**

I hereby certify that I caused a copy of the foregoing document to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Date: February 10, 2016

s/Joseph Ahillen  
JOSEPH AHILLEN